

REMARKS

In the parent application Ser. No. 09/992,796 filed November 5, 2001, an Advisory Action dated March 31, 2004, stated that the request for allowance did not place the application in condition for allowance. The present continuation application has been filed to further prosecute claims 1-14 and 16-21. Thus, the instant Preliminary Amendment will address the rejections from the parent application's Advisory Action of the Final Office Action dated December 30, 2003.

Claims 17-21 are allowed. Claims 12 and 13 are objected to, but would be allowed if rewritten in independent form. All of the limitations of claim 12 have been included into independent claim 9; claim 13 now depends from allowable claim 9. Claims 1 and 14 have been amended to include the limitation that the fixed charge plate is disposed on the substrate. Support for these amendments can be found on pages 10-11, lines 23-5. Thus, claims 1-14 and 16 are pending and remain in the application. No new subject matter has been added.

A. 35 U.S.C. § 103(a)**Muller in view of Dhuller - Claims 1- 9 and 11**

Claims 1-9 and 11 of the parent application stand rejected under 35 U.S.C. § 103(a) as being anticipated by U.S. Patent No. 4,674,319 issued June 23, 1987 to Richard S. Muller, (hereinafter "Muller") in view of the U.S. Patent No. 6,215,644 issued April 10, 2001 to Vijaykumar R. Dhuler (hereinafter "Dhuler")(Office Action, pages 2).

Regarding independent claims 1 and 9, the Office relies on Muller for a teaching of "a fixed charge plate (substrate surface), a moveable charge plate 24, and a stiffener in

a center portion of the moveable charge plate. The Office contends that while Muller does not disclose a fixed actuator plate, it would have been obvious to include the fixed actuator plate of Dhuler in the Muller reference (Office Action, page 2).

With respect to claim 1 of the present invention, claim 1 has been amended to include the limitation of the fixed charge plate being disposed on the substrate. Muller teaches a fixed charge plate that comprises the surface of the substrate, i.e., it is not a separate element from the substrate, as is taught in claim 1 of the present invention.

"To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." In *re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Because neither the Muller patent nor the Dhuler patent teach or suggest all of the limitations of claim 1, from which dependent claims 2-8 depend respectively, claims 1-8 are not rendered obvious over the Muller patent in view of the Dhuler patent.

With respect to independent claim 9, claim 9 has been amended to include all of the limitations of canceled claim 12, which the Office has stated would be allowed if written in independent form. Claim 11 depends from allowable claim 9.

Therefore, reconsideration and withdrawal of the Section 103(a) rejection of claims 1-9 and 11 are respectfully requested.

Muller in view of Dhuler and further in view of Miller - Claims 10, 14 and 16

Claims 10, 14, and 16 of the parent application stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Muller patent in view of the Duhler patent, and

further in view of the U.S. patent No. 5,185,690 issued February 9, 1993 to Mark L. Miller (hereinafter "the Miller patent") (Office Action, pages 3).


Regarding claim 10, the Office contends that "it would have been obvious to use the flexible dielectric layer of the Miller patent as the suspension structure of Muller." (Office Action at page 3). However, as described above, claim 9, from which claim 10 depends, has been amended to include all of the limitations of allowable claim 12. Therefore claim 10 is not rendered obvious over the Muller patent in view of the Dhuler patent and further in view of the Miller patent.

Regarding claims 14 and 16, the Office contends that "it would have been obvious to use the flexible dielectric layer of Miller to change the capacity of the capacitor of Muller." (Office Action at page 4). Claim 14 has been amended to include the limitation that the fixed charge plate is disposed on the substrate, as described previously herein. Because neither the Muller patent, the Duhler patent, nor the Miller patent teach or suggest all of the limitations of claims 14 and 16 (which depends from 14), claims 14 and 16 are not rendered obvious over the Muller patent in view of the Dhuler patent and further in view of the Miller patent. Therefore, reconsideration and withdrawal of the Section 103(a) rejection of claims 14 and 16 are respectfully requested.

In view of the foregoing remarks, the Applicants request allowance of the application. Please forward further communications to the address of record. If the Examiner needs to contact the below-signed agent to further the prosecution of the application, the contact number is (503) 264-0944.

Respectfully submitted,

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